

Agent Orange Brief

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AGENT ORANGE - HEALTH CARE ELIGIBILITY

What is it?

In October 1996, Public Law 104-262, the Veterans' Health Care Eligibility Reform Act of 1996, was enacted. This law contains the following provisions, which alter the way the Department of Veterans Affairs (VA) delivers hospital care and medical services. There was no change in nursing home care.

The new law makes VA eligibility rules the same for both inpatient hospital care and medical services. (The law repeals the former requirement that certain care only be provided in preparation for hospital admission or to obviate the need for hospital admission or to complete treatment incident to hospital, nursing home, domiciliary or medical services.)

The law establishes two categories of veterans who are eligible for care. The first category includes veterans to whom VA "shall" furnish any needed hospital and medical services, but only to the extent and in the amount that Congress appropriates funds to provide the care. The second category includes veterans to whom VA "may" furnish any needed hospital and medical services, but only to the extent resources and facilities are available, and only if the veteran agrees to pay VA a co-payment in exchange for care.

Included in the first category, Vietnam veterans who may have been exposed to Agent Orange or other herbicides in Vietnam have mandatory eligibility for hospital care and medical services. In addition, they have discretionary eligibility for nursing home care for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure.

What are the restrictions on this care?

There are some restrictions on the care that can be provided under this law. VA cannot provide such care for a (1) disability which VA determines did not result from exposure to Agent Orange or (2) disease which the National Academy of Sciences (NAS) has determined that there is "limited/suggestive" evidence of no association between occurrence of the disease and exposure to a herbicide agent.

The following types of conditions are not ordinarily thought to be due to such exposure (the first restriction): (a) congenital, that is, existing at or from one's birth, or developmental conditions, for example, scoliosis; (b) conditions which are known to have pre-existed military service; (c) conditions resulting from trauma, for example, deformity or limitation of motion of an extremity; (d) conditions having a specific and well established etiology, for example, tuberculosis and gout; and (e) common conditions having a well recognized clinical course, for example, inguinal hernia and acute appendicitis.

As for the second restriction, the NAS, in its most recent report (released in February 1999), categorized the following diseases as "limited/suggestive" evidence of no association with a herbicide agent: gastrointestinal tumors (stomach cancer, pancreatic cancer, colon cancer, rectal cancer), and brain tumors.

Any veteran already receiving hospital care, medical services, or nursing home care for a condition(s) possibly associated with exposure to herbicides, under the old health care law who would not be eligible for care under the new law, **remains** eligible for such care on the basis of presumed exposure with respect to the disability for which care and services were being furnished.

Public Law 104-262, also mandates VA to establish and implement a national enrollment system to manage the delivery of healthcare services. The law requires that effective October 1, 1998, veterans (with some exceptions) must be "enrolled" to receive care. The exceptions are veterans needing treatment for a service-connected condition, veterans with service-connected disabilities rated 50 percent or more, and veterans discharged or released from active duty for a disability that was incurred or aggravated in the line of duty during the 12-month period following separation. The law also requires VA to manage the enrollment of veterans in accordance with a series of priorities, which includes veterans receiving care for exposure to toxic substances or environmental hazards. Agent Orange-exposed veterans are included in enrollment priority group 6, unless they have other eligibility, which would place them in a higher priority group.

How does a decision that a veteran is eligible for health care affect disability compensation?

It is important to understand that a decision by VA that a veteran is eligible for health care does not constitute a basis for service-connection or in any way affect determinations regarding service-connection.

Where can a veteran obtain additional information on this program?

Because of the complexity in determining eligibility for VA medical care benefits, veterans with questions regarding this matter are **strongly encouraged to contact the admissions office** at the nearest VA health care facility. Veterans will be interviewed individually and their eligibility will be determined accordingly.